

DEPARTMENT OF NATURAL RESOURCES

DIRECTOR'S ANNUAL REPORT: 2013

IC 4-22-2-28.1(k)

Cameron F. Clark.
Director, Department of Natural Resources
Secretary, Natural Resources Commission
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Forwarded to:

Legislative Council
Indiana Economic Development Corporation

ANNUAL REPORT

IC 4-22-2-28.1(k)

TITLE 312 NATURAL RESOURCES COMMISSION

IC 4-22-2-28.1(k) Responses

IC 4-22-2-28.1(k) Responses

The number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved

ARTICLE 1. DEFINITIONS

LSA Document #07-111(F)

Questions were received regarding definitions associated with riparian rights, public freshwater lakes, and navigable waters. It is unknown whether the inquiries were made by small businesses.

LSA Document #08-286(F)

The definition of “lake” periodically attracts questions—or at least there are questions concerning what constitutes a “lake”. The estimate is ten inquiries were received regarding the definition in the last year. Inquiries sometimes indicated interest that was personal, but in other instances, the basis for interest was not stated. For purposes of this inquiry, one question is assumed to have originated from a small business.

ARTICLE 2. PROCEDURES AND DELEGATIONS

LSA Document #08-52(F)

The small business regulatory coordinator did not receive any comments, questions or complaints.

ARTICLE 3. ADJUDICATORY PROCEEDINGS

LSA Document #08-52(F)

The Natural Resources Commission, Division of Hearings, receives approximately three calls per week (156 per year) from persons requesting information regarding administrative procedures in adjudicatory proceedings. It is unknown whether the inquiries were made by small businesses.

LSA Document #08-688(F)

Three questions were received concerning the rule section authorizing consolidated OEA/NRC hearings for qualified adjudications of water matters. The questions were from attorneys and may relate to the operation of small business. For purposes of this inquiry, two questions are presumed to have been received from or on behalf of a small business.

ARTICLE 5. BOATING ON PUBLIC WATERS OF INDIANA

LSA Document #08-295(F)

The Lake Tippecanoe Property Owners Association (LTPOA) petitioned DNR in the summer of 2012 to extend the rule establishing the ecozone on Tippecanoe and James Lakes. The rule is set to expire at the end of 2013. LTPOA originally asked that a new rule would extend indefinitely

the current boundaries and speed/boating restrictions exactly as they are in the current rule. Following the petition, seven letters were received from property owners adjacent to the portion of the ecozone in the northeast corner of Tippecanoe Lake asking for that quadrant to be excluded from the proposed rule. No comments were received from small businesses

LSA Document #08-57(F)

Approximately four questions were received concerning boating rules. The likelihood is most of these questions did not originate from small businesses. Inquiries sometimes indicated interest that was personal, but in other instances, the basis for interest was not stated. For purposes of this inquiry, one question is assumed to have originated from a small business.

ARTICLE 6.2. GREAT LAKES BASIN WATER MANAGEMENT

LSA Document #08-531(F)

Two questions were received regarding the incipient rule for Great Lakes water management. The questions were, in actuality, expressions of prospective interest in the development of the Great Lakes-St. Lawrence Compact rules. Their origin from a small business seems unlikely.

ARTICLE 8. PUBLIC USE OF NATURAL AND RECREATIONAL AREAS

LSA Document #09-986(F)

No complaints, comments or questions have been received outside the normal application process for Fishing Tournament information. No specific comments or questions raised by any applicant have not gone unanswered in a satisfactory manner.

LSA Document #10-37(F)

There have been Occasional inquiries into the Property Rules from both field managers and the at times, the general public. This readoption of 312 IAC 8 has not caused any new specific questions or comments from the public to this readoption.

LSA Document #10-566(F)

One inquiry was received for a fish attractor at Monroe Lake this past year.

LSA Document #11-421(F)

The SBRC reports that approximately twelve e-mails have been received regarding LSA Document #11-421(F) *Firewood on DNR Property* between June 30, 2012 and the June 30, 2013 fiscal year end. The following is a general breakdown by category:

- Visitor Complaints = 1
- Visitor Questions = 8
- Small Business Complaints = 0
- Small Business Questions = 3

ARTICLE 9. FISH AND WILDLIFE

LSA Document #104(F)

Two questions regarding offering hunting and taking of feral (wild) hogs in 312 IAC 9-3-18.6.

LSA Document #10-614(F)

Two questions and one complaint were received regarding the sale of furbearers taken during the season.

LSA Document #11-101(F)

Four questions were received regarding the use of the draw-loc device.

LSA Document #12-115(F)

Five questions were received regarding processing of deer under 312 IAC 9-3-10.

LSA Document #12-381(F)

Four questions and four comments were received regarding 312 IAC 9-8-7.

LSA Document #12-403(F)

Six questions were received regarding 312 IAC 9-7-2.

ARTICLE 10. FLOOD PLAIN MANAGEMENT**LSA Document #11-170(F)**

Two questions were received regarding permits required to remove a logjam in 312 IAC 10-5-6.

ARTICLE 10.5. REGULATION OF DAMS**LSA Document #06-92(F)**

No comments, complaints, and questions were received regarding the rule from small businesses, by the Small Business Regulatory Coordinator (SBRC) for LSA Document #06-92(F) in the most recent State fiscal year ending in June of 2013.

Typical program focused comments, complaints, and questions routinely received are regarding the larger subject matter of dam safety, owner financial assistance, population at risk and the State's dam safety statute IC 14-27-7.5. They can be categorized into fourteen groups.

- Individuals living in the potential dam breach failure flood inundation areas below dams, seeking answers about the safety of the dams that put them at risk and the actions of the dam owners (or lack thereof) to correct deficiencies.
- Concern from people that bought property downstream of dams and were not told by the seller or real estate professional that there are serious safety deficiencies with the dam.
- Concern from people that bought property around manmade lakes and were not told by the seller or real estate professional, that there are serious safety deficiencies with the dam, or that they have financial / ownership obligations associated with the dam's upkeep and operation.
- Concern from people that bought property around manmade lakes, which were flooded because their homes were built with lowest floor levels below the top of their dam.
- Concerned citizens wanting the Department to take more enforcement action to make the dam owner improve the dam to a safer condition.
- Questions from reporters seeking to follow up on State efforts to require dam owners to repair or rehabilitate dams damaged during the major 2008 flood events throughout Indiana.
- Engineering firms asking technical questions in either an attempt to learn how to design safe dams, or to understand the concepts of inspecting dams.

- Engineering firms with experience in dam safety engineering seeking to coordinate technical issue review prior to finalizing new dam, or existing dam rehabilitation designs.
- Owners of dams who don't understand why the statute holds them responsible for the safety, high hazard dam inspection, maintenance, operation, and repair of their structures.
- Owners of dams seeking State or Federal financial assistance for the performance of high hazard dam inspections, maintenance, operation, and questions from owners seeking financial assistance for the repair / rehabilitation of their structures.
- Owners of dams seeking free technical guidance / design services for creating or modifying their dams.
- Owners of dams seeking free technical engineering analysis and guidance during either times of incident / emergency conditions at their dams, or when deficiencies have grown to the point that structural rehabilitation is required.
- Questions from owners seeking to give their damaged or failed dams to the State.
- Emergency response agencies seeking on site assessments, technical analysis, and guidance during times of incident and emergency conditions at dams.
- Calls from individuals and realtors regarding property for sale with a dam, or on an impoundment made by a dam, wondering about the condition and integrity of the dam, and about potential future repair and financial obligations associated with the structure.

ARTICLE 11.8. SURFACE WATER DISPUTES MEDIATION

The only comments received from outside state government were those of Justine Schneider of the Indiana Farm Bureau.

ARTICLE 13. WATER WELL DRILLERS

LSA Document #11-332(F)

There have been approximately 35 general comments, 65 questions, and four complaints from small business with regard to this rule adoption

ARTICLE 18. ENTOMOLOGY AND PLANT PATHOLOGY

LSA Document #08-413(F)

Several small businesses a week contact the division to request compliance agreements to ensure compliance with the current rule. Members of the public (approximately 10-20 per week) contact the division with questions about the current quarantine and their ability to move regulated materials throughout the state of Indiana.

LSA Document #09-85(F)

Several small businesses a week contact the division to request compliance agreements to ensure compliance with the current rule. Members of the public (approximately 10-20 per week) contact the division with questions about the current quarantine and their ability to move regulated materials throughout the state of Indiana. Questions pertain to firewood movement across state lines as well as movement within Indiana.

LSA Document #12-50(F)

There were four comments and/or questions received from small businesses in FY 13 regarding this rule.

LSA Document #12-511(F)

Over the course of the past year there have been some comments and questions received about the TCD rule. Some small businesses that are held to the standards within the rule have had concerns that the rule will impact their current business practices however there is little evidence of that impact actually occurring in the industry. Other members of the industry have requested training for their staff and/or compliance agreements in case they eventually do business that would be impacted by the rule. The Division of Entomology and Plant Pathology has been quick to respond to the concerns of the industry and offer any assistance required or requested. As members of the industry learn more about the requirements involved and begin to work within the quarantine there is less confusion and products move through the state to be processed more readily.

ARTICLE 19. RESEARCH, COLLECTION, QUOTAS, AND SALES OF PLANTS**LSA Document #10-60(F)**

Of the 28 small businesses affected: 3 phone questions were received regarding proper adherence to required administrative paperwork. 1 question was received regarding a statement upon the license application which led to a valid change in the process for 2013. We now include copies of the rule and law when providing the application form to all interested business entities.

ARTICLE 27. FLOOD CONTROL REVOLVING FUND**LSA Document #09-199(F)**

The Flood Control Revolving Fund was created by IC 14-28-5 in the 1950s, and intended to encourage local initiatives to solve local flooding and water resource problems. By statute, this Fund provides only to local units of government low interest loans to help finance relevant local flood control programs. By statute, this loan program can only be obtained by entities falling under the definition of *local unit* as set forth by IC 14-28-5-4. Local unit is defined as county, city, town, or special taxing district created by law such as a conservancy district. Therefore, this loan program is not available to small businesses.

No comments, complaints, or questions were received regarding the rule from small businesses, by the Small Business Regulatory Coordinator (SBRC) for LSA Document #09-199(F). Typical program focused comments and questions routinely received from individuals and engineering consultants are regarding the larger subject matter of how to expand the statute so as to:

- allow a broad group of non-governmental applicants,
- expand the definition of what could be considered a flood control project, and
- allow access to funds earlier in the conceptual / feasibility phase of project contemplation.

The number of complaints or questions reported that were resolved to the satisfaction of the agency and the small businesses involved.

ARTICLE 1. DEFINITIONS

LSA Document #07-111(F)

It is believed that the questions received regarding definitions associated with riparian rights, public freshwater lakes, and navigable waters were answered to the satisfaction of the inquirers. However, it is unknown whether the inquiries were made by small businesses.

LSA Document #08-286(F)

One question was resolved.

ARTICLE 2. PROCEDURES AND DELEGATIONS

LSA Document #08-52(F)

It is believed that the questions received regarding adjudicatory proceedings were answered to the satisfaction of the inquirer and agency; however, it is unknown whether the questions were posed by small business.

ARTICLE 3. ADJUDICATORY PROCEEDINGS

LSA Document #08-688(F)

Two questions were resolved.

ARTICLE 5. BOATING ON PUBLIC WATERS OF INDIANA

LSA Document #08-57(F)

One question was resolved.

LSA Document #08-295(F)

Following the public opposition for the ecozone in the NE corner of Tippecanoe Lake, LTPOA modified their petition thereby excluding the quadrant from the proposal. DNR has received Natural Resource Commission preliminary adoption for a rule indefinitely extending the ecozone and the quadrant in the NE corner of Lake Tippecanoe has been removed from the ecozone rule language.

ARTICLE 6.2. GREAT LAKES BASIN WATER MANAGEMENT

LSA Document #08-531(F)

Two questions were resolved.

ARTICLE 8. PUBLIC USE OF NATURAL AND RECREATIONAL AREAS

LSA Document #09-986(F)

No complaints were made that needed a response to a Small Business issue arising over this rule amendment.

LSA Document #10-37(F)

Any questions related to 312 IAC are not specifically recorded by this individual but are captured in our Park/Lake email specific to our division and not to other DNR Divisions. However, all divisions meet quarterly (DNR Property Regulations Committee) to review the 312 IAC 8 rules where issues are discussed and any changes recommended. These rule changes are submitted through the NRC for public comment.

LSA Document #10-566(F)

The questions related to fish attractors were answered and the person making the inquiry understood the rule requirements and complied with them to the best of my knowledge.

LSA Document #11-421(F)

All complaints and questions were provided detailed replies to the extent that no further discussion was necessary or correspondence left open ended. We feel that all correspondence was resolved with satisfaction.

ARTICLE 9. FISH AND WILDLIFE

LSA Document #104(F)

All questions regarding offering hunting and taking of feral (wild) hogs were answered satisfactorily.

LSA Document #10-614(F)

One question was answered satisfactorily.

LSA Document #11-101(F)

All questions received regarding the use of the draw-loc device were answered satisfactorily.

LSA Document #12-115(F)

All questions received regarding processing of deer under 312 IAC 9-3-10 were answered satisfactorily.

LSA Document #12-381(F)

All questions and four comments received regarding 312 IAC 9-8-7 were answered satisfactorily.

LSA Document #12-403(F)

All questions received regarding 312 IAC 9-7-2 were answered satisfactorily.

ARTICLE 10. FLOOD PLAIN MANAGEMENT

LSA Document #11-170(F)

Both questions received regarding permits required to remove a logjam in 312 IAC 10-5-6 were answered satisfactorily.

ARTICLE 11.8. SURFACE WATER DISPUTES MEDIATION

LSA Document #12-554(F)

Justin Schneider telephoned and inquired whether the Small Business Regulator Coordinator (“SBRC”) would be willing to outline amended IC 14-25-1-8 and new 312 IAC 11.8 during the Farm Bureau’s 2013 Drainage School. When Schneider telephoned the rule proposal was pending before the Attorney General, and the SBRC agreed to speak to the Drainage School if 312 IAC 11.8 became effective. Schneider’s stated perspective was the legislation and proposed rule were positive concepts that were supportive of dispute resolution and “the kind of thing” the Farm Bureau was seeking. With 312 IAC 11.8 completing the review process and becoming effective on June 21, 2013, the SBRC confirmed with Schneider that the SBRC would speak at the Drainage School. The expectation is this participation will be to the satisfaction of the Indiana Farm Bureau.

The Indiana Farm Bureau and one other person made an inquiry concerning the new rule to assist in addressing surface water mediation. The small business regulatory coordinator agreed to participate in a conference on August 28, 2013 to discuss the rule. The rule and resulting inquiries are new, and they were not of a type to characterize as being resolved or unresolved. The responses were in the nature of education or outreach and not problem solving.

ARTICLE 13. WATER WELL DRILLERS

LSA Document #11-332(F)

All questions and complaints have been addressed and resolved for this rule adoption.

ARTICLE 18. ENTOMOLOGY AND PLANT PATHOLOGY

LSA Document #08-413(F)

All questions were answered to the satisfaction of the agency and small business or members of the public in a timely manner. Members of the public occasionally disagree with the inability to move firewood into state properties. However, this requirement proposed and adopted by state properties does not apply to the rule above.

LSA Document #09-85(F)

All questions are answered to the satisfaction of the agency and small business or members of the public in a timely manner. Members of the public occasionally disagree with the inability to move firewood into state properties. However, this requirement proposed and adopted by state properties does not apply to the rule above.

LSA Document #12-50(F)

All four of the questions were regarding the identity of specific species within the rule and were completely resolved in Fiscal Year 2013.

LSA Document #12-511(F)

All complaints and questions reported have been resolved to the satisfaction of the agency and the small business involved. There are currently twelve small businesses in Indiana with compliance agreements to work within the quarantine requirements set up by this rule. All businesses are able to process their materials in a timely manner and have responded well to the requirements established by the compliance agreements.

ARTICLE 19. RESEARCH, COLLECTION, QUOTAS, AND SALES OF PLANTS

LSA Document #10-60(F)

Each of the four questions raised were successfully resolved.

The total number of staff serving as coordinators under this section during the most recent state fiscal year

There were 24 staff members serving as coordinators for a total of 88 rules under IC 4-22-2-28.1 during the State fiscal year 2012– 2013.

The agency's costs in complying with this section during the most recent state fiscal year

Total cost reported by the small business regulatory coordinators in the fiscal year 2012–2013 is \$23,195.04.

The projected budget required by the agency to comply with this section during the current state fiscal year

The projected budget required by the agency to comply with this section during the current 2013-2014 state fiscal year is \$24,270.70.

DATE: September 12 , 2013



Cameron F. Clark
Director
Department of Natural Resources

(SBRC Report: Final rules filed during 2012 – 2013 Fiscal Year)

- LSA Document #12-555(F)
- LSA Document #12-554(F)
- LSA Document #12-514(F)
- LSA Document #12-511(F)
- LSA Document #12-403(F)
- LSA Document #12-381(F)
- LSA Document #12-273(F)
- LSA Document #12-270(F)
- LSA Document #12-218(F)
- LSA Document #12-115(F)
- LSA Document #12-65(F)
- LSA Document #12-50(F)
- LSA Document #11-740(F)

(SBRC Report: Final rules filed during 2011 – 2012 Fiscal Year)

LSA Document #12-109(F)
LSA Document #11-470(F)
LSA Document #11-442(F)
LSA Document #11-421(F)
LSA Document #11-358(F)
LSA Document #11-332(F)
LSA Document #11-196(F)
LSA Document #11-177(F)
LSA Document #11-170(F)
LSA Document #11-103(F)
LSA Document #11-101(F)
LSA Document #11-42(F)
LSA Document #10-668(F)
LSA Document #10-667(F)
LSA Document #10-614(F)

(SBRC Report: Final rules filed during 2010 – 2011 Fiscal Year)

LSA Document #11-2(F)
LSA Document #10-566(F)
LSA Document #10-547(F)
LSA Document #10-501(F)
LSA Document #10-418(F)
LSA Document #10-230(F)
LSA Document #10-162(F)
LSA Document #10-104(F)
LSA Document #10-59(F)
LSA Document #10-42(F)

LSA Document #09-986(F)
LSA Document #09-984(F)
LSA Document #09-876(F)
LSA Document #09-806(F)
LSA Document #09-616(F)

(SBRC Report: Final rules filed during 2009 – 2010 Fiscal Year)

LSA Document #10-161(F)
LSA Document #10-60(F)
LSA Document #10-51(F)
LSA Document #10-38(F)
LSA Document #10-37(F)
LSA Document #10-33(F)
LSA Document #09-486(F)
LSA Document #09-479(F)
LSA Document #09-470(F)
LSA Document #09-210(F)
LSA Document #09-199(F)
LSA Document #09-152(F)
LSA Document #09-137(F)
LSA Document #09-85(F)
LSA Document #09-80(F)
LSA Document #09-60(F)
LSA Document #09-44(F)
LSA Document #08-886(F)

(SBRC Report: Final rules reported, and filed during 2008 – 2009 Fiscal Year)

LSA Document #09-155(F)
LSA Document #09-154(F)
LSA Document #09-153(F)
LSA Document #08-775(F)
LSA Document #08-756(F)
LSA Document #08-740(F)
LSA Document #08-688(F)
LSA Document #08-672(F)
LSA Document #08-614(F)
LSA Document #08-534(F)
LSA Document #08-531(F)
LSA Document #08-413(F)
LSA Document #08-295(F)
LSA Document #08-286(F)
LSA Document #08-131(F)
LSA Document #08-76(F)
LSA Document #08-72(F)
LSA Document #08-52(F)

(SBRC Report: Final Rules reported, filed during 2007 – 2008 Fiscal Year)

LSA Document #08-57(F)
LSA Document #07-192(F)

LSA Document #07-184(F)

(SBRC Report: Final Rules reported, filed during 2006 – 2007 Fiscal Year)

LSA Document #07-146(F)

LSA Document #07-145(F)

LSA Document #07-140(F)

LSA Document #07-111(F)

LSA Document #06-92(F)